STANDARD APPLICATION
Harford County Board of Appeals
Bel Air, Maryland 21014

RECEIVED
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HARFORD COUNTY

Case No. 5568
Date Filed 8/23/06
Hearing Date
Receipt
Fee $450

Shaded Areas for Office Use Only

Type of Application

____ Administrative Decision/Interpretation
____ Special Exception
____ Use Variance
____ Change/Extension of Non-Conforming Use
____ Minor Area Variance
X Area Variance
____ Variance from Requirements of the Code
____ Zoning Map/Drafting Correction
____ _____

Nature of Request and Section(s) of Code _____

CASE 5568 **MAP** 66 **TYPE** Variance **ELECTION DISTICT** 01

LOCATION W/S of Flying Point Road, North of Willoughby Beach Road

BY BG&E Light Speed Communication, 1068 N. Front Street, Rm 200, Baltimore 21202

Appealed because a variance pursuant to Section 267-41.1G(4)(b) of the Harford County Code to permit disturbance to a 75 foot non-tidal wetland buffer in Resource Conservation Area (RCA) required approval by the Board.

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Applicant/Owner (please print or type)

Name BG&E LIGHT SPEED COMMUNICATION Phone Number 410-291-5727

Address 1068 N. FRONT STREET RM 200 BALTIMORE MD 21202
Street Number *Street* *City* *State* *Zip Code*

Co-Applicant CINGULAR WIRELESS PCS LLC Phone Number 410-712-7893

Address 7150 STANDARD DR. HANOVER MD 21076
Street Number *Street* *City* *State* *Zip Code*

Contract Purchaser _____ Phone Number _____

Address _____
Street Number *Street* *City* *State* *Zip Code*

Attorney/Representative DAN PRINCIPE Phone Number 678 251-5918

Address 7150 STANDARD DR. HANOVER MD 21076
Street Number *Street* *City* *State* *Zip Code*

Land Description

Address and Location of Property BG&E UTILITY POLE 2364
WEST SIDE OF FLYING POINT RD, NORTH OF WILLOUGHBY BEACH RD.

Subdivision _____ Lot Number PAR A

Acreage/Lot Size 13.5 Election District 01 Zoning R2

Tax Map No. 66 Grid No. 20 Parcel 259 Water/Sewer: Private ☐ Public ☐

List ALL structures on property and current use: PROPERTY IS ROW FOR BG&E ELECTRICAL OVERHEAD. STRUCTURE IS AN EXISTING BG&E UTILITY POLE

Estimated time required to present case: 30 min

If this Appeal is in reference to a Building Permit, state number N/A

Would approval of this petition violate the covenants and restrictions for your property? _____

Is this property located within the County's Chesapeake Bay Critical Area? Yes ☑ No ☐

If so, what is the Critical Area Land Use designations: RCA

Is this request the result of a zoning enforcement investigation? Yes ☐ No ☑

Is this request within one (1) mile of any incorporated town limits? Yes ☐ No ☐

Request

VARIANCE APPROVAL TO SETBACK FROM DELINATED WETLAND IN CLOSE PROXIMITY TO THE EXISTING BG&E UTILITY POLE. CINGULAR WIRELESS REQUESTS TO CO LOCATE A WIRELESS TELECOMMUNICATIONS FACILITY ON THE EXISTING POLE AND GROUND SPACE
SEE SUPPORTING DOCUMENTATION

Justification

THE SITE OF THE EXISTING BG&E UTILITY POLE IS A PREVIOUSLY DISTURBED WETLAND. WETLANDS WERE DELINATED WITHIN 50' THE PROPOSED FACILITY DOES NOT ENCROACH INTO THE WETLAND, AND IS PROPOSED USING THE EXISTING TOWER AND GROUNDS THERE BY MINIMIZING IMPACT TO ENVIRONMENT AND GROUNDS. MITIGATING ACTIONS HAVE BEEN ESTABLISHED AND RECOMMENDED TO ADDRESS FACILITY IMPLEMENTATIONS SEE SUPPORTING DOCUMENTS

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

Harford County Zoning and Planning Department

Request for Variance of setback requirements from a wetland area.

Location: Baltimore Gas & Electric (BGE) Tower 2364, West side of Flying Point Road, Edgewood, Maryland

Background:

Cingular Wireless (New Cingular Wireless) 7150 Standard Drive, Hanover, Md. 21076, in an on going effort to provide and improve wireless cellular coverage to its clients and subscribers along the Amtrak rail system desires to locate a cell tower in the proposed location. In an effort to minimize the impact to the environment, and attain the desired location needed to provided reasonable service to customers in the area, Cingular has proposed a Co Location on an existing BGE tower at this location.

The existing BGE structure and proposed telecommunication facility is located within the Habitat of Local Significance and is referenced as a location of Forrest Interior Dwelling Species (FIDS). The area is located within a single, previously identified wetland area which surrounds the structure to the north, south, and west. The area immediately surrounding the tower is fill and subsequently excluded from the wet land.

A Wetland Delineation Report (Archer: Environmental Navigators Nov. 10, 2005; included) delineated wetland within 50 feet of the BGE utility tower. The site contains one wetland area. Archer identified wetland areas on the north, south, and west side surrounding the filled tower area. Based on site topography and soil profile characteristics, it appears that filling activities occurred during construction of the utility tower.

Uniqueness of the property

The BG&E utility tower and site location provide a unique opportunity to co locate a telecommunication facility on an existing tower in a previously disturbed wetland area, minimizing the impact and disruption to surrounding environment and land.

The objective is to build a new wireless telecommunication facility in the area of Edgewood that will provide coverage specifically along Willoughby Beach Road and SR 159. The addition of this site will provide service for the residents of Bush River,

Edgewood, and surrounding areas. This site and location is needed to ensure overlap coverage and handoffs between existing Edgewood and Perryman sites. At the same time this location is required to meet the coverage objective of this area. This site and location is needed as an Amtrak route coverage site.

Adjacent Properties

The variance will not be substantially detrimental to adjacent properties nor materially impair the purpose of the code or the public interest. As seen on the site plan, (attached) the proposed facility will be located on non wetland space next to the tower and behind the existing tree line. Fencing and shrubbery will be used to obstruct street view of the facility.

Chesapeake Bay Critical Area Overlay District

Variance Request to Article 267-41.1

A variance from the provision of this section is requested due to special features and circumstances and uniqueness of this site. Implementation of this section or literal enforcement of these provisions would result in unwarranted hardship.

Special Conditions and Circumstances

Cingular proposes build a wireless telecommunication facility by co locating on an existing BGE utility tower and adjacent ground space. The existing BGE tower and ground space is located within the Habitat of Local Significance and is referenced as a location of Forrest Interior Dwelling Species (FIDS). A wetland study delineated wetlands within 50 feet of the BGE tower. The study identified wetland areas on the north, south, and west side surrounding the filled tower compound area.

The special condition and circumstance is that the proposed telecommunication facility would co locate on an existing tower, within a previous disturbed area, thus minimizing environmental and land disturbance.

While wetland was delineated within 50 feet of the tower, the ground immediately adjacent and around the tower is not wetland.

Literal Interpretation

Literal interpretation would create a hardship and prevent wireless coverage along Willoughby Beach, SR 159 and along the Amtrak route.

The variance request is not based on conditions or circumstances which are the result of actions by the applicant.

The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the critical area. Mitigating Steps as identified in the Environmental Impact Overview (attached) have been identified to minimize any impact to the environment and ground.

Habitat Protection

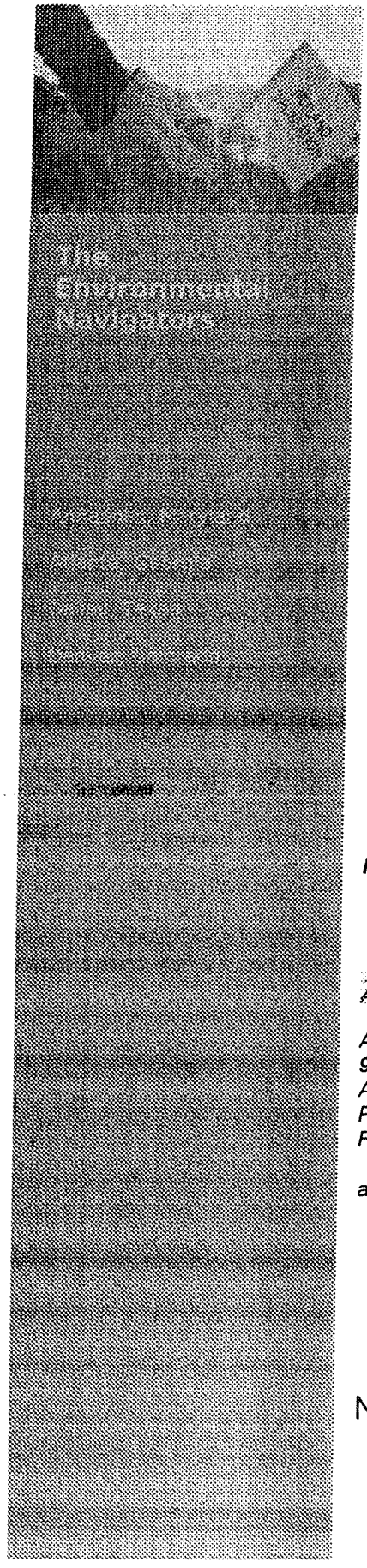
An Environmental Impact assessment (attached) as identified mitigating steps such as introduction of plants and/or shrubs to the area to be executed immediately

The equipment building should be elevated on supporting piers; the building should not be supported by the ground surface. Access into the equipment building shall be via an elevated equipment platform to minimize the impact of foot traffic by site personnel.

Signage will be placed to restrict activity within the area. Signs will be securely placed and in clear and plain view and will address specific limitations.

Impact to Adjacent Properties

There is no impact to adjacent properties. The proposed equipment shelter will be placed behind the existing tree line, and the use of shrubs and plants will restore the surrounding area.



Wetland Delineation Report

Cingular Site: Willoughby
BGE tower 2364
Flying Point Road, Edgewood, Maryland
Harford County

Prepared for:

nsoro
It's just good business.

Prepared by:

AARCHER

Aarcher, Inc.
910 Commerce Road
Annapolis, Maryland 21401
Phone (410) 897-9100
Fax (410) 897-9104

aarcherinc.com

November 10, 2005

Wetland Delineation
Cingular Site: Willoughby (BGE Tower 2364)
Executive Summary

Aarcher delineated wetlands and other potential Waters of the United States within 50 feet of BGE utility tower 2364, on the west side of Flying Point Road, Edgewood, Maryland (Harford County) on November 2, 2005.

The site contains one wetland area. Aarcher identified wetland areas on the north, south, and west side surrounding the filled tower area. Based on site topography and soil profile characteristics, it appears that filling activities occurred during construction of the utility tower.

State or local authorities may impose regulations, such as restrictions on activities in areas immediately adjacent to wetlands (i.e., wetland buffers).

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1.0 Background

On October 31, 2005, NSoro requested that Aarcher, Inc., (Aarcher) delineate boundaries of wetlands and other potential Waters of the United States for a Cingular Wireless site Willoughby, located at BGE tower 2364, Flying Point Road, Edgewood, Maryland. Nsoro requested the delineation as part of site planning activities associated with a proposed telecommunication site; wetlands were delineated within 50 feet of the BGE tower. Aarcher performed the wetland delineation on November 2, 2005, in accordance with the U.S. Army Corps of Engineers (USACE) Wetlands Delineation Manual (Technical Report Y-87-1; U.S. Army Engineer Waterways Experiment Station; Vicksburg, MS)("the Manual") procedures.

Aarcher was contracted to delineate wetland areas and other potential Waters of the United States within 50 feet of BGE tower 2364 (project site). The wetland boundary was flagged onsite, and a field sketch is provided as Attachment A.

It appeared, based on topography and soil profiles, that the tower location was filled during construction of the BGE tower. It was outside of Aarcher's scope of services to determine whether wetlands were present at the project site prior to construction of the utility tower. The location of flagged wetland boundaries were not professionally surveyed.

Property Information	
Address	West side of Flying Point Road, Edgewood, Maryland; Harford County
Owner	Baltimore Gas and Electric (BGE)
Lat/Long	39-26-9.4 N, 76-15-18 W

2.0 Methods

Before performing the onsite assessment, Aarcher reviewed available documentation of relevant site conditions. Aarcher analyzed the U.S. Geological Survey (USGS) 7.5-minute quadrangle map for the site (Edgewood, MD) (scale 1:24,000) and USGS National Wetland Maps to identify distinguishing topographical features, primary drainage patterns, and proximity to nearby waterways.

The onsite wetland delineation began with an overall assessment of plant communities, hydrology, and topographic features of the site. Aarcher delineated each area exhibiting potential wetland hydrology or a distinct plant community within the project site. Wetland indicator parameters (i.e., hydric soils, predominance of hydrophytic vegetation, wetland hydrology) were assessed within each of these areas, as necessary, to determine whether wetland criteria were met:

- Soil pits were dug by hand and soil profiles were analyzed to determine whether hydric soils were present. The team developed soil profiles and compared soils to mapped soils units.
- Dominant plant species in each stratum were identified based on delineator experience and a variety of taxonomic references and vegetation guides. Dominant species were compared to the "National List of Vascular Plant Species that Occur in Wetlands, Indicator by Region and Subregion" (U.S. Fish and Wildlife Service, 1996) (Northeast Region, Coastal Plain Subregion) to determine each species' indicator status.
- Any indicators of wetland hydrology, as defined by the Manual, were identified and recorded.

When all three criteria were met, the area was recorded as a wetland, and the boundary between wetlands and uplands was marked with pink plastic wire flags. Data forms completed for each sample area are provided in Attachment B.

3.0 Observations

The site is access from Flying Point Road, through a gated access road. The tower is located approximately 76 feet from the gate along Flying Point Road. The tower is part of an overhead electrical transmission line system that runs north-south along Flying Point Road. The tower appears to be installed on fill material, which has likely altered the natural drainage patterns at the site. The tower, grassy area immediately surrounding the tower, and access road is at a slightly higher elevation than the area to the north, south, and west of the tower.

Weather conditions during the field delineation were clear skies and temperatures of approximately 65 degrees. No precipitation was recorded within 24 hours prior to the delineation.

According to soil survey maps, the nearest waterway to the property is an unnamed tributary of Otter Point Creek north of the site.

Generally, wetlands at the site are characterized by distinct changes in vegetation, clear hydrologic indicators (e.g., inundation, drainage patterns, saturation), and hydric soil indicators (e.g., low-chroma colors, sulfidic odor). Soils outside the wetland areas generally correspond to non-hydric soils indicated in the county soil survey maps. Hydric soils are gradually replaced by upland soils with increasing elevation. The site is mapped by the soil survey as within the Mattapex series near the boundary of the Othello map series, and shows characteristics of both soil types.

Characteristics of both the Mattapex and Othello soil series, according to the County Soil Survey, are provided in Table 1.

Table 1: Soil Series

Mapping Unit	Soil Series	Characteristics
MlB	Mattapex silt loam, 2 to 5 percent slopes	Deep, moderately well drained soils. Included in the mapping area are soils that are slightly sandier than typical and some scattered moderately eroded areas.
Ot	Othello silt loam	Deep, poorly drained, nearly level soils on upland interfluvial flats of the Coastal Plain. Formed in old loamy deposits underlain by coarser sediment. Loamy material in some slight depressions.

4.0 Conclusions

Aarcher's delineation identified one wetland area within 50 feet of the tower site, which extends the north, west, and south sides of the area apparently filled during installation of the tower. The wetland area extends out of the 50-foot investigation area. The map provided in Appendix A and corresponding table (Table 2) provides the locations and characteristics of the wetland areas. All boundaries of wetlands and other potential Waters of the United States are provided on the site map provided in Attachment A.

Table 2: Wetlands and Other Waters of the United States

Wetland Area	Characteristics
1	Based on aerial photographs, this wetland area was formerly characterized as woodland, but areas have since been cleared for development of the utility line. The wetland area surrounds the tower fill area on the north, west, and south sides. It is located at a lower elevation than the tower site, access road, and adjacent Flying Point Road easement. Wooded area are characterized by *Acer rubrum, Liquidambar styraciflua, and Vibernum recognitum* plant species; and gleyed/low-chroma soils with bright mottling below the A horizon. Cleared areas within this wetland area are characterized primarily by *Juncus effuses, Phragmites australis, Acer rubrum,* and *Typha latifolia* plant species; gleyed/low-chroma soils with sulfidic odor; and inundated hydrology. *Festuca arundinacea,* apparently seeded, dominates throughout cleared areas.

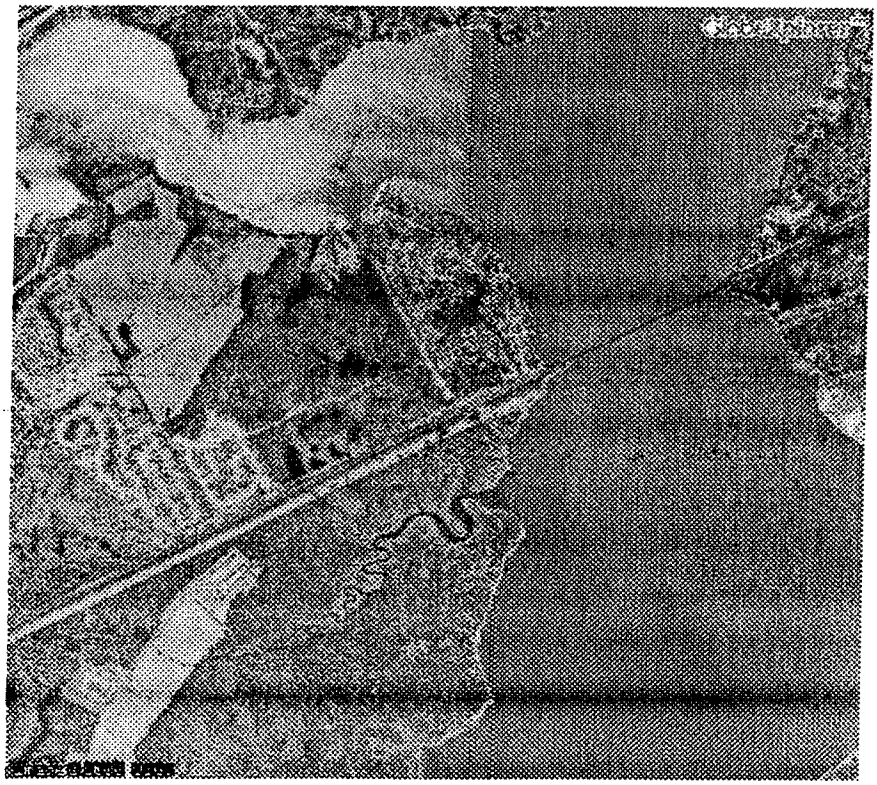
It should be noted that restrictions on impacts to wetland buffers exist under State wetland regulations. Aarcher did not investigate requirements for wetland buffer; buffers associated with site wetlands are not indicated on the attached site plan (Attachment A). Photos representative of the site and wetland areas are presented in Attachment C.

5.0 Limitations

Aarcher performed the wetland delineations and prepared this report in accordance with generally accepted practices. No warranty, express or implied, is made as to the professional advice included herein. This report does not constitute a jurisdictional determination of Waters of the United States. Any such determination must be made by appropriate regulatory authorities (U.S. Army Corps of Engineers).

ENVIRONMENTAL IMPACT OVERVIEW

PROJECT NAME: CINGULAR / WILLOUGHBY



PREPARED FOR:

nsoro
it's just good business.

PREPARED BY:

PROTOCOL
ENVIRONMENTAL
SYSTEMS

1.0 PROJECT IDENTIFICATION

- Proposed telecommunications site for Cingular Wireless
- Site Location:

Flying Point Road / Willoughby Beach Road
BG&E Pole #2364
Edgewood, MD 21040
Harford County

Lat: N 39.43367036
Long: W 76.25447384

- Current Owner of Structure:

Baltimore Gas & Electric
1068 North Front Street, Room 200
Baltimore, MD 21202

2.0 SCOPE

This overview is provided to assist the client in developing information and processes to identify recognized environmental conditions in connection with the subject site. A scope of work, relative to Cingular Wireless' telecommunications project, was provided by Nsoro. A wetland delineation report, prepared by Aarcher, Inc., dated 11/10/05, was also provided by Nsoro; certain datum within this report was used for this overview.

3.0 LIMITATIONS

This overview did not include subsurface or invasive assessments or business environmental risk evaluations. The limitations of this overview are in general accordance with ASTM E1527-00. Suggested actions or methods within this overview are based upon the site's current utilization, the most recent reconnaissance information and data; such information is subject to change. An environmental overview, by its very nature, is opinion-orientated as it depends on limited document sources and non-invasive observations on a specific day and time. This overview's contents will be confined to specific recommended mitigating actions to limit environmental impact to the defined wetland and the surrounding area as a result of execution of the provided scope of work.

4.0 EXISTING CONDITIONS

The proposed location of the telecommunications facility is located within the Habitat of Local Significance and is referenced as a location of Forrest Interior Dwelling Species (FIDS). The existing BG&E structure is located within a single, previously identified wetland area which surrounds the structure to the north, south and west.

There is evidence that fill was used in the area, more than likely during the placement of the power pole structure. There is additional inconclusive evidence in the form of aerial photographs that the area was classified as woodlands prior to the construction of the BG&E utility line.

The BG&E structure is accessed via a gated entrance to the east; there is no developed driveway or gravel easement. The structure is located approximately 83 feet from Flying Point Road.

There is very minor evidence of non-invasive, non-penetrating disturbance in the area surrounding the structure; this is most likely a result of utility personnel accessing the power pole.

It does not appear that chemicals, hazardous substances or petroleum products are currently used on site. Therefore, the potential for contamination from the on-site use of these substances is very low.

5.0 INTRODUCTION OF TELECOMMUNICATIONS SITE

The proposed telecommunications site, as depicted in construction drawings provided by Nsoro, (GSE #06010B rev4), does not encroach into the defined wetland area. At its nearest point the site will be approximately 14 feet from the defined wetland boundary.

The principal permanent feature of the site relevant to this environmental impact overview is the installation and presence of the telecommunications equipment building. Specifications for this shelter are referenced in the afore-mentioned construction drawings.

The consistent and permanent presence of this equipment building will create an impervious surface area of approximately 390 square feet. Mitigating steps, as outlined in the next section, will counter this action and maintain the environmental condition of the area.

Personnel and vehicular access to the area must not be increased either in frequency or scope, as a result of the presence of the site, in order to maintain the environmental condition of the area.

No feature or supporting element of the telecommunications site should introduce hazardous exhaust or permeable gaseous elements to the area.

6.0 MITIGATING STEPS

Upon installation of the telecommunications facility the introduction of plants and/or shrubs to the area should be executed immediately. Based upon the pro-rata formula for impervious surface creation / plant introduction, no less than 8 plants and/or shrubs should be placed. These plants should be limited to species beneficial to the specific area, as outlined below:

- Ilex Glabra (inkberry)
- Ilex verticillata (winterberry)
- Parthenocissus quinquefolia (Virginia creeper)
- Ilex Opaca (American Holly)

The equipment building as depicted in the afore-mentioned construction drawings should be elevated on supporting piers; the building should not be supported directly by the ground surface.

The equipment building should be accessed via an elevated grated platform. This will minimize the impact of foot traffic by site personnel.

Signage should be placed to restrict activity within the area. Signs should be securely placed in clear and plain view and should address specific limitations.

- NO VEHICLES BEYOND THIS POINT
- NO MOTORCYCLES OR ATV'S
- NO EXCAVATION OR DIGGING

7.0 CONCLUSION

The mitigating steps described above, if implemented in accordance with industry standards, will minimize any effects from the presence of the telecommunications site. Any alteration or deviance from the scope of work or the features of the proposed telecommunications site will render this overview irrelevant.